IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.396 OF 2005

Bharat Jyoti Plaintiff

versus

Kerala State Drug and Pharma Ltd. Defendant

C.Krishna Mohan Nair for plaintiff

None for defendant

CORAM : S.C.DHARMADHIKARI, J.

DATE : 27th June 2005

PC :

1. This summary suit is lodged on 24th December 2004 under Lodging No.3841 of 2004. Subsequently the objections were removed and it was numbered as 396 of 2005 on 9th February 2005.

2. A writ of summons was duly served by the Sheriff of Mumbai and the bailiff in this office has filed an affidavit proving service and enclosing therewith the acknowledgement card duly received. Affidavit is taken on record and marked "X" for identification. The plaintiff’s advocate states that the suit is filed on the

basis of a written contract as evidenced by purchase order, delivery challans and invoices. The goods in question have been duly received and appropriated by the defendants. There is no dispute raised as to the quality, quantity or price thereof. The terms and conditions in the invoices provide for payment of 30 days from the date of receipt of the same. No payment was made and therefore, notice prior to filing of the suit was duly served. Despite receipt thereof, there is no compliance made with the requisitions contained therein. He submits that the claim of the plaintiff is within limitation.

3. Although writ of summons is duly served, there is no appearance filed by the defendant. Thus, there is no defence to the claim. None appears for defendant despite service. I am satisfied that the suit is maintainable as a summary suit. On perusal of the plaint and annexures as well as original documents I am satisfied that the claim is not barred by limitation. In the light of this, following order.

4. ORDER :- A) Original documents along with list taken on record and marked "X" for

identification.

B) Decree as prayed.

C) Refund of court fee as also computation of advocates' costs as per rules.

(S.C.DHARMADHIKARI, J.)